

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Richard E. Youds,
Petitioner-Appellant.

v.

Marshall County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-64-0233
Parcel No. 11-10-276-001

On May 10, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Richard Youds, was self-represented and requested the appeal take place without a hearing. The Marshall County Board of Review designated Craig Madill, Marshall County Assessor, as its representative. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Richard Youds, owner of residential property located at 904 West Southridge Road, Marshalltown, Iowa, appeals from the Marshall County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2010, assessment and valued at \$229,074; representing \$35,277 in land value and \$193,797 in dwelling value. This value was the same as the 2009 assessment.

Youds protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a); that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b); and that there has been a change downward in the value since the last assessment under Iowa Code sections 441.37(1) and 441.35(3). In response to the protest, the Board of Review notified Youds the January 1, 2010,

assessment would not change, stating in part, "That said property is not assessed for more than the market value."

Youds then appealed to this Board again asserting there has been a downward change in value. Youds values the property at \$215,000, and seeks \$14,074 in relief.

The subject property consists of a two-story frame dwelling having 642 square-foot base, a one-story frame addition with 544 square feet, and an attached garage of 576 square feet with 288 square feet of living quarters over the garage. The dwelling was built in 1978 and the site consists of 0.31 acres.

Youds states in a letter that in June 2009 he listed the property for sale for \$229,000 which is slightly lower than the assessed value. The price was lowered to \$225,000 in September and lowered again in December 2009 to \$219,000. Youds states that he has shown the property 35-40 times with no offers. The Youds' realtor, Karri Hennings of Five Star Realty, indicated to him that property usually sells for 95% of the list price. He claims this would indicate an assessed value of \$208,000.

Youds purchased the property in June of 2006 for \$220,000 and the assessed value was \$213,508. In his opinion, with the falling market, it is a mistake to assess the subject property at \$229,094. Youds also indicated in his appeal to this Board that Rich Nusbaum of the assessor's office admitted that the Board of Review should have lowered the assessment.

The Marshall County Board of Review did not supply any additional evidence other than the certified record.

Reviewing all the evidence, we find the preponderance of the evidence does not support Youds' contention that there has been a downward change in value. Although Youds provided evidence that his attempt to sell the subject property for less than the assessed value, he failed to show what the January 1, 2009, value was. Both a 2009 and 2010 value are necessary to show a change in assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In a non-reassessment or "interim" year, when the value of the property has not change, a taxpayer may challenge its assessment on the basis that there has been a downward change in value. *Eagle Food Ctr., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993). The last numbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward change in value. For a taxpayer to be successful in its claim of

change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997). The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

Youds failed to prove by a preponderance of evidence that the subject property has had a change in value. Although the listing price is significantly less than the assessment and one might argue suggests a downward change in value, there is no evidence to support the market value for January 1, 2009 value. Therefore, we affirm Youds' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$229,074.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Marshall County Board of Review is affirmed.

Dated this 20 day of June 2011.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:

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APPELLANT

Craig Madill, Marshall County Assessor
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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-20</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>[Signature]</i></u>